

Jill Koford proposes the following substitute bill:

Dedicated Water Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jill Koford

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses the approval of dedicated water applications.

Highlighted Provisions:

This bill:

- modifies a fee provision;
- addresses provisions applicable to dedicated water applications;
- prohibits segregation of a dedicated water application from an underlying water right;
- addresses process for approval of instream flow and related actions;
- defines terms;
- provides for the filing and approval of a dedicated water application;
- addresses land in agricultural use;
- authorizes the state engineer to require certain reporting;
- addresses lapsing of a dedicated water application; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-14, as last amended by Laws of Utah 2025, Chapter 73

73-3-10, as last amended by Laws of Utah 2021, Chapter 81

73-3-16, as last amended by Laws of Utah 2024, Chapter 233

73-3-27, as last amended by Laws of Utah 2024, Chapter 233

73-3-30, as last amended by Laws of Utah 2023, Chapters 34, 253

ENACTS:

73-3-30.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-2-14** is amended to read:

73-2-14 . Fees of state engineer -- Deposited as a dedicated credit.

(1) The state engineer shall charge fees pursuant to Section 63J-1-504 for the following:

- (a) applications to appropriate water;
- (b) applications to temporarily appropriate water;
- (c) applications for a change;
- (d) applications for exchange;
- (e) applications for nonuse of water;
- (f) applications to appropriate water, or make a change, for use outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;
- (g) groundwater recovery permits;
- (h) diligence claims for surface or underground water filed pursuant to Section 73-5-13;
- (i) republication of notice to water users after amendment of application where required by this title;
- (j) dedicated water applications;
- ~~[(j)]~~ (k) applications to segregate;
- ~~[(k)]~~ (l) requests for an extension of time in which to submit proof of appropriation not to exceed 14 years after the date of approval of the application;
- ~~[(l)]~~ (m) requests for an extension of time in which to submit proof of appropriation 14 years or more after the date of approval of the application;
- ~~[(m)]~~ (n) groundwater recharge permits;
- ~~[(n)]~~ (o) applications for a well driller's license, annual renewal of a well driller's license, and late annual renewal of a well driller's license;
- ~~[(o)]~~ (p) certification of copies;
- ~~[(p)]~~ (q) preparing copies of documents; and
- ~~[(q)]~~ (r) reports of water right conveyance.

(2) ~~[Fees]~~ The state engineer shall base a fee for the services specified in Subsections (1)(a) through ~~[(i) shall be based]~~ (j) upon the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and storage, the state engineer shall base the fee ~~[shall be based]~~ upon either the rate of flow or annual volume of water stored, whichever fee is

greater.

(3) Fees collected under this section:

(a) shall be deposited into the General Fund as a dedicated credit to be used by the

Division of Water Rights; and

(b) may only be used by the Division of Water Rights to:

(i) meet the publication of notice requirements under this title;

(ii) process reports of water right conveyance; and

(iii) hire an employee to assist with processing an application.

Section 2. Section **73-3-10** is amended to read:

73-3-10 . Approval or rejection of application.

(1) When the state engineer approves or rejects an application, the state engineer shall record the approval decision or rejection decision in the state engineer's office.

(2) On the same day on which the state engineer makes an approval decision or rejection decision described in Subsection (1), the state engineer shall mail, or send electronically if receipt is verifiable, the decision to the applicant.

(3) If an application is approved, the applicant may, upon receipt of the approval decision:

(a) proceed with the construction of the necessary works;

(b) take any steps required to apply the water to the use described in the application; and

(c) perfect the proposed application.

(4) If the application is rejected, the applicant may not take steps toward the prosecution of:

(a) the work proposed in the application; or

(b) the proposed diversion and use of the public water in the application.

(5) In a decision approving an application, other than an application for a fixed time period or a dedicated water application, the state engineer shall state the time within which:

(a) the construction work ~~[must]~~ shall be completed; and

(b) the water ~~[must]~~ shall be applied to beneficial use.

Section 3. Section **73-3-16** is amended to read:

73-3-16 . Proof of appropriation or permanent change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof of completion of the works and application of the water to a beneficial use is due.

- 97 (2)(a) On or before the date set for completing the proof in accordance with the
98 approved application, the applicant shall file proof with the state engineer on forms
99 furnished by the state engineer.
- 100 (b) The filing of a proof in accordance with this section is a request for agency action
101 under Title 63G, Chapter 4, Administrative Procedures Act, only between the
102 applicant and the state engineer.
- 103 (3) Except as provided in Subsection (4), the applicant shall submit the following
104 information:
- 105 (a) a description of the works constructed;
- 106 (b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;
- 107 (c) the method of:
- 108 (i) applying the water to beneficial use; or
- 109 (ii) verifying a net decrease in depletion or net reduction in diversion in accordance
110 with an application to quantify saved water, as defined in Section 73-3-3; and
- 111 (d)(i) detailed measurements:
- 112 (A) of water put to beneficial use; and
- 113 (B) if applicable, demonstrating the quantity of saved water, as defined in Section
114 73-3-3;
- 115 (ii) the date the measurements were made; and
- 116 (iii) the name of the person making the measurements.
- 117 (4)(a)(i) On applications filed for appropriation or permanent change of use of water
118 to provide a water supply for state projects constructed [~~pursuant to~~] in accordance
119 with Chapter 10, Board of Water Resources - Division of Water Resources, or for
120 federal projects constructed by the United States Bureau of Reclamation for the
121 use and benefit of the state, any of [~~its~~] the state's agencies, [~~its~~] the state's political
122 subdivisions, public and quasi-municipal corporations, or water users' associations
123 of which the state, [~~its~~] the state's agencies, the state's political subdivisions, or
124 public and quasi-municipal corporations are stockholders, the proof shall include:
- 125 (A) a statement indicating construction of the project works has been completed;
- 126 (B) a description of the major features with appropriate maps, profiles, drawings,
127 and reservoir area-capacity curves;
- 128 (C) a description of the point or points of diversion and rediversion;
- 129 (D) project operation data;
- 130 (E) a map showing the place of use of water and a statement of the purpose and

- 131 method of use;
- 132 (F) the project plan for beneficial use of water under the applications and the
- 133 quantity of water required; and
- 134 (G) a statement indicating what type of measuring devices have been installed.
- 135 (ii) The director of the Division of Water Resources shall sign proofs for the state
- 136 projects and an authorized official of the Bureau of Reclamation shall sign proofs
- 137 for the federal projects specified in Subsection (4)(a)(i).
- 138 (b) Proof on an application for appropriation or permanent change for a surface storage
- 139 facility in excess of 1,000 acre-feet constructed by a public water supplier to provide
- 140 a water supply for the reasonable requirements of the public shall include:
- 141 (i) a description of the completed water storage facility;
- 142 (ii) a description of the major project features and appropriate maps, profiles,
- 143 drawings, and reservoir area-capacity curves as required by the state engineer;
- 144 (iii) the quantity of water stored in acre-feet;
- 145 (iv) a description of the water distribution facility for the delivery of the water; and
- 146 (v) the project plan for beneficial use of water including any existing contracts for
- 147 water delivery.
- 148 (5) The proof on an application shall be sworn to by the applicant or the applicant's
- 149 appointed representative.
- 150 (6)(a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall
- 151 submit ~~[maps, profiles, and drawings]~~ a map, profile, or drawing made by a Utah
- 152 licensed land surveyor or Utah licensed professional engineer that ~~[show]~~ shows:
- 153 (i) the location of the completed works;
- 154 (ii) the nature and extent of the completed works;
- 155 (iii) the natural stream or source from which and the point where the water is diverted
- 156 and, in the case of a nonconsumptive use, the point where the water is returned;
- 157 and
- 158 (iv) the place of use.
- 159 (b) The state engineer may waive the filing of ~~[maps, profiles, and drawings]~~ a map,
- 160 profile, or drawing if in the state engineer's opinion the written proof adequately
- 161 describes the works and the nature and extent of beneficial use.
- 162 (7) In those areas in which general determination proceedings are pending, or have been
- 163 concluded, under Chapter 4, Determination of Water Rights, the state engineer may
- 164 petition the ~~[district]~~ court with jurisdiction for permission to:

- (a) waive the requirements of this section and Section 73-3-17; and
- (b) permit each owner of an application to file a verified statement to the effect that the applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to [it] the determination of water rights in accordance with Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.

(8) This section does not apply to an application for a fixed time~~[-or]~~ , a temporary change application, or dedicated water application as defined in Section 73-3-30.3.

Section 4. Section **73-3-27** is amended to read:

73-3-27 . Requests for segregation or consolidation.

(1)(a) Upon written request, the state engineer shall segregate into two or more parts the following in the state engineer's records:

(i) an application to:

(A) under Section 73-3-2, appropriate water; or

(B) under Section 73-3-3, permanently change:

(I) the point of diversion;

(II) the place of water use; or

(III) the purpose of water use; and

(ii) a water right for which:

(A) the state engineer has issued a certificate according to Section 73-3-17;

(B) a court has entered a judgment according to Section 73-4-15; and

(C) a person has filed a claim according to Section 73-5-13.

(b) A person shall:

(i) submit the request authorized by Subsection (1)(a) on a form furnished by the state engineer; and

(ii) include:

(A) the water right number to be segregated;

(B) the name and post-office address of the owner of the application or water right;

(C) a statement of the nature of the proposed segregation;

(D) the reasons for the proposed segregation; and

(E) other information the state engineer may require to accomplish the segregation.

(c) Notwithstanding Subsection (1)(a)[;] :

(i) a person may not segregate saved water, as defined in Section 73-3-3, ~~[may not be segregated]~~ from the underlying water right that serves as the basis of the saved

- 199 water, except in accordance with rules made under Section 73-2-1 and Title 63G,
200 Chapter 3, Utah Administrative Rulemaking Act[-] ; and
201 (ii) a person may not segregate a dedicated water application, as defined in Section
202 73-3-30.3, from the underlying water right or application that serves as the basis
203 of the dedicated water application.
- 204 (2)(a) An action taken by the state engineer on an application or water right before
205 segregation is applicable in all respects to the segregated parts of the application or
206 water right.
- 207 (b) After the state engineer segregates the application or water right, each segregated
208 part is a separate application or water right in the state engineer's records.
- 209 (c) The segregation of an application or a water right in the state engineer's records does
210 not:
- 211 (i) confirm the validity or good standing of the segregated parts of the application or
212 water right; or
- 213 (ii) extend the time for the construction of works for an application.
- 214 (3) Upon written request, the state engineer may consolidate two or more applications or
215 water rights if the applications or water rights:
- 216 (a) are from the same source;
- 217 (b) have the same priority date; and
- 218 (c) are sufficiently consistent in definition that the consolidated application or water
219 right may be described without referring to the characteristics of the individual
220 application or water right that existed before consolidation.

221 Section 5. Section **73-3-30** is amended to read:

222 **73-3-30 . Application for an instream flow or use on sovereign lands --**
223 **Application for delivery to a reservoir.**

- 224 (1) As used in this section:
- 225 (a) "Colorado River System" means the same as that term is defined in Sections 73-12a-2
226 and 73-13-10.
- 227 (b) "Dedicated water application" means the same as that term is defined in Section
228 73-3-30.3.
- 229 ~~[(b)]~~ (c) "Division" means:
- 230 (i) the Division of Wildlife Resources created in Section 23A-2-201[~~7~~] ;
- 231 (ii) the Division of State Parks created in Section 79-4-201[~~7~~] ; or
- 232 (iii) the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

~~[(e)]~~ (d) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

~~[(d)]~~ (e) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

(f) "Wildlife" means the same as that term is defined in Section 23A-1-101.

~~[(e) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.]~~

(2)(a) ~~[Pursuant to]~~ In accordance with Section 73-3-3, for a purpose described in Subsection (2)(b):

(i) a division may file a permanent change application, a fixed time change application, ~~[or]~~ a temporary change application, or a dedicated water application;
or

(ii) a person entitled to the use of water may file a fixed time change application~~[or]~~ ,
a temporary change application, or a dedicated water application.

~~(b)~~ A division or person entitled to the use of water may file an application described in Subsection (2)(a) to provide water within the state for:

(i) an instream flow within a specified section of a natural or altered stream; or
(ii) use on sovereign lands.

~~[(b)]~~ (c) The state engineer may not approve ~~[a change]~~ an application filed under this Subsection (2) unless the proposed instream flow or use on sovereign lands will contribute to:

(i) the propagation or maintenance of wildlife;
(ii) the management of state parks; or
(iii) the reasonable preservation or enhancement of the natural aquatic environment.

~~[(e)]~~ (d) A division may file ~~[a change]~~ an application described in Subsection (2)(a)(i) on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

(C) secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

~~[(d)]~~ (e) A division may:

- 267 (i) purchase a water right for the purposes described in Subsection ~~[(2)(a)]~~ (2)(b) only
268 with ~~[funds]~~ money specifically appropriated by the Legislature for water rights
269 purchases; or
- 270 (ii) accept a donated water right without legislative approval.
- 271 ~~[(e)]~~ (f) A division may not acquire water rights by eminent domain for an instream flow,
272 use on sovereign lands, or for any other purpose.
- 273 (3)(a) ~~[A-]~~ Before filing an application described by Subsection (2)(a)(ii), a person
274 entitled to the use of water shall obtain a division director's [approval of the proposed
275 change before filing a fixed time change application or a temporary change
276 application with the state engineer] written concurrence with the application.
- 277 (b) By ~~[approving a proposed fixed time change application or temporary change~~
278 ~~application]~~ concurring with a proposed application filed under Subsection (2)(a)(ii),
279 a division director attests that the water that is the subject of the application can be
280 used consistent with the statutory mandates of the director's division.
- 281 (4)(a) ~~[Pursuant to]~~ In accordance with Section 73-3-3, a person entitled to the use of
282 water may file a fixed time change application~~[-or]~~ , a temporary change application,
283 or a dedicated water application for a project to deliver water to a reservoir located
284 partially or entirely within the Colorado River System in the state in accordance with:
- 285 (i) Colorado River Drought Contingency Plan Authorization Act, Public Law 116-14;
286 (ii) a water conservation program funded by the Bureau of Reclamation; or
287 (iii) a water conservation program authorized by the state.
- 288 (b) Before filing ~~[a change]~~ an application under this Subsection (4), a person entitled to
289 the use of water shall obtain the ~~[approval]~~ written concurrence to the application
290 from the executive director of the Colorado River Authority of Utah, appointed under
291 Section 63M-14-401.
- 292 (c) By ~~[approving]~~ concurring with a proposed ~~[fixed time change application or~~
293 ~~temporary change]~~ application, the executive director of the Colorado River
294 Authority of Utah attests that the water that is the subject of the application can be
295 used consistent with this section.
- 296 (5) In addition to the requirements of Section 73-3-3, an application authorized by this
297 section shall include:
- 298 (a) a legal description of:
- 299 (i) the segment of the natural or altered stream that will be the place of use for an
300 instream flow;

- (ii) the location where the water will be used on sovereign lands; or
- (iii) the reservoir located partially or entirely within the Colorado River System in the state that the water will be delivered to; and
- (b) appropriate studies, reports, or other information required by the state engineer demonstrating:
- (i) the projected benefits to the public resulting from the ~~[change]~~ application; and
- (ii) the necessity for the proposed instream flow or use on sovereign lands.
- (6) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.
- (7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.
- (8) A physical structure or physical diversion from the stream is not required to implement ~~a change~~ an application under this section.
- (9) An approved ~~[change]~~ application described in this section does not create a right of access across private property or allow any infringement of a private property right.
- Section 6. Section **73-3-30.3** is enacted to read:
- 73-3-30.3 . Dedicated water application.**
- (1) As used in this section:
- (a) "Agricultural land" means land in agricultural use, as defined in Section 59-2-502.
- (b) "Dedicated water" means water that has been recognized for delivery or use under Section 73-3-30 and a dedicated water application.
- (c) "Dedicated water application" means an application to change the existing nature of use and place of use for a water right by adding a nature of use for:
- (i) an instream flow within a specified reach of a natural or altered stream;
- (ii) use on sovereign lands; or
- (iii) a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with this section.
- (d) "Split season use" means making sequential use of a portion of a water right in the same calendar year.
- (2) A dedicated water application may:
- (a) be filed for:
- (i) a fixed period of time; or
- (ii) an indefinite period of time; and
- (b) include a split season use.

- 335 (3) Approval of a dedicated water application does not:
- 336 (a) change an existing element of the underlying water right;
- 337 (b) extend the time for filing proof or taking other required action associated with the
- 338 underlying water right; or
- 339 (c) require the applicant to make dedicated water available for use in a given year or in a
- 340 specific quantity or volume.
- 341 (4)(a) The state engineer shall process a dedicated water application in accordance with
- 342 Sections 73-3-3 and 73-3-8.
- 343 (b) The state engineer shall prioritize the processing of a dedicated water application.
- 344 (c) The state engineer may deny a dedicated water application if the state engineer
- 345 determines that the dedicated water application would result in land being removed
- 346 from agricultural land for a full irrigation season in more than two years out of a
- 347 five-year period on the same agricultural field.
- 348 (5) The state engineer may require an owner of an approved dedicated water application
- 349 under this section to provide:
- 350 (a) annual notice of intent to exercise the dedicated water application;
- 351 (b) information about the annual volume of water to be dedicated by the owner from the
- 352 underlying water right; and
- 353 (c) other information the state engineer considers necessary to:
- 354 (i) ensure the dedication of water is taking place;
- 355 (ii) establish that the owner still has a legal interest in the underlying water right used
- 356 as the basis for the dedication of water; or
- 357 (iii) determine the quantity of water being dedicated.
- 358 (6) An approved dedicated water application lapses:
- 359 (a) automatically on the date the underlying water right that is the basis of the dedicated
- 360 application:
- 361 (i) lapses;
- 362 (ii) is withdrawn; or
- 363 (iii) is declared forfeited or abandoned; or
- 364 (b) upon notice from the state engineer if:
- 365 (i) the applicant no longer holds a legal interest in the underlying water right that is
- 366 the basis of the dedicated water application;
- 367 (ii) the delivery of dedicated water can no longer be carried out as stated in the
- 368 dedicated water application;

369 (iii) the applicant has not complied with the conditions established by the state
370 engineer in the order approving the dedicated water application; or
371 (iv) the applicant fails to provide the information requested by the state engineer
372 under Subsection (5).

373 Section 7. **Effective Date.**

374 This bill takes effect on May 6, 2026.